

# Senate Amendment 3237

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1 1 Amend Senate File 415 as follows:  
1 2 #1. By striking everything after the enacting  
1 3 clause and inserting the following:  
1 4 <Section 1. Section 22.7, Code 2005, is amended by  
1 5 adding the following new subsection:  
1 6 NEW SUBSECTION. 51. Confidential information, as  
1 7 defined in section 86.45, subsection 1, filed with the  
1 8 workers' compensation commissioner.  
1 9 Sec. 2. Section 85.27, subsection 7, Code 2005, is  
1 10 amended to read as follows:  
1 11 7. If, after the third day of incapacity to work  
1 12 following the date of sustaining a compensable injury  
1 13 which does not result in permanent partial disability,  
1 14 or if, at any time after sustaining a compensable  
1 15 injury which results in permanent partial disability,  
1 16 an employee, who is not receiving weekly benefits  
1 17 under section 85.33 or section 85.34, subsection 1,  
1 18 returns to work and is required to leave work for one  
1 19 full day or less to receive services pursuant to this  
1 20 section, the employee shall be paid an amount  
1 21 equivalent to the wages lost at the employee's regular  
1 22 rate of pay for the time the employee is required to  
1 23 leave work. For the purposes of this subsection, "day  
1 24 of incapacity to work" means eight hours of  
1 25 accumulated absence from work due to incapacity to  
1 26 work or due to the receipt of services pursuant to  
1 27 this section. The employer shall make the payments  
1 28 under this subsection as wages to the employee after  
1 29 making such deductions from the amount as legally  
1 30 required or customarily made by the employer from  
1 31 wages. Payments made under this subsection shall be  
1 32 required to be reimbursed pursuant to any insurance  
1 33 policy covering workers' compensation. Payments under  
1 34 this subsection shall not be construed to be payment  
1 35 of weekly benefits.  
1 36 Sec. 3. Section 85.35, Code 2005, is amended to  
1 37 read as follows:  
1 38 85.35 ~~SETTLEMENT IN CONTESTED CASE~~ SETTLEMENTS.  
1 39 1. The parties to a contested case or persons who  
1 40 are involved in a dispute which could culminate in a  
1 41 contested case may enter into a settlement of any  
1 42 claim arising under this chapter or chapter 85A, 85B,  
1 43 or 86, providing for final disposition of the claim,  
1 44 provided that no final disposition affecting rights to  
1 45 future benefits may be had when the only dispute is  
1 46 the degree of disability resulting from an injury for  
1 47 which an award for payments or agreement for  
1 48 settlement under section 86.13 has been made. The  
1 49 settlement shall be in writing on forms prescribed by  
1 50 the workers' compensation commissioner and submitted  
2 1 to the workers' compensation commissioner for  
2 2 approval.  
2 3 2. The parties may enter into an agreement for  
2 4 settlement that establishes the employer's liability,  
2 5 fixes the nature and extent of the employee's current  
2 6 right to accrued benefits, and establishes the  
2 7 employee's right to statutory benefits that accrue in  
2 8 the future.  
2 9 3. The parties may enter into a compromise  
2 10 settlement of the employee's claim to benefits as a  
2 11 full and final disposition of the claim.  
2 12 4. The parties may enter into a settlement that is  
2 13 a combination of an agreement for settlement and a  
2 14 compromise settlement that establishes the employer's  
2 15 liability for part of a claim but makes a full and  
2 16 final disposition of other parts of a claim.  
2 17 5. A contingent settlement may be made and  
2 18 approved, conditioned upon subsequent approval by a  
2 19 court or governmental agency, or upon any other  
2 20 subsequent event that is expected to occur within one  
2 21 year from the date of the settlement. If the  
2 22 subsequent approval or event does not occur, the  
2 23 contingent settlement and its approval may be vacated  
2 24 by order of the workers' compensation commissioner

2 25 upon a petition for vacation filed by one of the  
2 26 parties or upon agreement by all parties. If a  
2 27 contingent settlement is vacated, the running of any  
2 28 period of limitation provided for in section 85.26 is  
2 29 tolled from the date the settlement was initially  
2 30 approved until the date that the settlement is  
2 31 vacated, and the claim is restored to the status that  
2 32 the claim held when the contingent settlement was  
2 33 initially approved. The contingency on a settlement  
2 34 lapses and the settlement becomes final and fully  
2 35 enforceable if an action to vacate the contingent  
2 36 settlement or to extend the period of time allowed for  
2 37 the subsequent approval or event to occur is not  
2 38 initiated within one year from the date that the  
2 39 contingent settlement was initially approved.

2 40 6. The parties may agree that settlement proceeds,  
2 41 which are paid in a lump sum, are intended to  
2 42 compensate the injured worker at a given monthly or  
2 43 weekly rate over the life expectancy of the injured  
2 44 worker. If such an agreement is reached, neither the  
2 45 weekly compensation rate which either has been paid,  
2 46 or should have been paid, throughout the case, nor the  
2 47 maximum statutory weekly rate applicable to the injury  
2 48 shall apply. Instead, the rate set forth in the  
2 49 settlement agreement shall be the rate for the case.

2 50 ~~The settlement shall not be approved unless~~  
3 1 ~~evidence of a bona fide dispute exists concerning any~~  
3 2 ~~of the following:~~

3 3 1. ~~The claimed injury arose out of or in the~~  
3 4 ~~course of the employment.~~

3 5 2. ~~The injured employee gave notice under section~~  
3 6 ~~85.23.~~

3 7 3. ~~Whether or not the statutes of limitations as~~  
3 8 ~~provided in section 85.26 have run. When the issue~~  
3 9 ~~involved is whether or not the statute of limitations~~  
3 10 ~~of section 85.26, subsection 2, has run, the final~~  
3 11 ~~disposition shall pertain to the right to weekly~~  
3 12 ~~compensation unless otherwise provided for in~~  
3 13 ~~subsection 7 of this section.~~

3 14 4. ~~The injury was caused by the employee's willful~~  
3 15 ~~intent to injure the employee's self or to willfully~~  
3 16 ~~injure another.~~

3 17 5. ~~Intoxication, which did not arise out of and in~~  
3 18 ~~the course of employment but which was due to the~~  
3 19 ~~effects of alcohol or another narcotic, depressant,~~  
3 20 ~~stimulant, hallucinogenic, or hypnotic drug not~~  
3 21 ~~prescribed by an authorized medical practitioner, was~~  
3 22 ~~a substantial factor in causing the employee's injury.~~

3 23 6. ~~The injury was caused by the willful act of a~~  
3 24 ~~third party directed against the employee for reasons~~  
3 25 ~~personal to such employee.~~

3 26 7. ~~This chapter or chapter 85A, 85B, 86 or 87~~  
3 27 ~~applies to the party making the claim.~~

3 28 8. ~~A substantial portion of the claimed disability~~  
3 29 ~~is related to physical or mental conditions other than~~  
3 30 ~~those caused by the injury.~~

3 31 7. ~~A settlement shall be approved by the workers'~~  
3 32 ~~compensation commissioner if the parties show all of~~  
3 33 ~~the following:~~

3 34 a. ~~Substantial evidence exists to support the~~  
3 35 ~~terms of the settlement.~~

3 36 b. ~~Waiver of the employee's right to a hearing,~~  
3 37 ~~decision, and statutory benefits is made knowingly by~~  
3 38 ~~the employee.~~

3 39 c. ~~The settlement is a reasonable and informed~~  
3 40 ~~compromise of the competing interests of the parties.~~

3 41 ~~If an employee is represented by legal counsel, it~~  
3 42 ~~is presumed that the required showing for approval of~~  
3 43 ~~the settlement has been made.~~

3 44 8. ~~Approval of a settlement by the workers'~~  
3 45 ~~compensation commissioner shall be is binding on the~~  
3 46 ~~parties and shall not be construed as an original~~  
3 47 ~~proceeding. Notwithstanding any provisions of this~~  
3 48 ~~chapter and chapters 85A, 85B, 86 and 87, an approved~~  
3 49 ~~compromise settlement shall constitute a final bar to~~  
3 50 ~~any further rights arising under this chapter and~~  
4 1 ~~chapters 85A, 85B, 86, and 87. Such regarding the~~  
4 2 ~~subject matter of the compromise and a payment made~~  
4 3 ~~pursuant to a compromise settlement agreement shall~~  
4 4 ~~not be construed as the payment of weekly~~  
4 5 ~~compensation.~~

4 6 Sec. 4. Section 85.38, subsection 2, unnumbered  
4 7 paragraph 2, Code 2005, is amended to read as follows:  
4 8 If an employer denies liability under this chapter,  
4 9 chapter 85A, or chapter 85B, for payment for any  
4 10 medical services received or weekly compensation  
4 11 requested by an employee ~~with a disability~~, and the  
4 12 employee is a beneficiary under either an individual  
4 13 or group plan for nonoccupational illness, injury, or  
4 14 disability, the nonoccupational plan shall not deny  
4 15 payment for the medical services received or for  
4 16 benefits under the plan on the basis that the  
4 17 employer's liability ~~for the medical services~~ under  
4 18 this chapter, chapter 85A, or chapter 85B is  
4 19 unresolved.

4 20 Sec. 5. Section 85.71, Code 2005, is amended by  
4 21 adding the following new subsection:

4 22 NEW SUBSECTION. 5. The employer has a place of  
4 23 business in Iowa, and the employee is working under a  
4 24 contract of hire which provides that the employee's  
4 25 workers' compensation claims be governed by Iowa law.

4 26 Sec. 6. Section 86.24, subsection 4, Code 2005, is  
4 27 amended to read as follows:

4 28 4. A transcript of a contested case proceeding  
4 29 shall be provided to the workers' compensation  
4 30 commissioner by an appealing party at the party's cost  
4 31 ~~and an affidavit shall be filed by the appealing party~~  
4 32 ~~or the party's attorney with the workers' compensation~~  
4 33 ~~commissioner within ten days after the filing of the~~  
4 34 ~~appeal to the workers' compensation commissioner~~  
4 35 ~~stating that the transcript has been ordered and~~  
4 36 ~~identifying the name and address of the reporter or~~  
4 37 ~~reporting firm from which the transcript has been~~  
4 38 ~~ordered.~~

4 39 Sec. 7. NEW SECTION. 86.45 CONFIDENTIAL  
4 40 INFORMATION.

4 41 1. "Confidential information", for the purposes of  
4 42 this section, means all information that is filed with  
4 43 the workers' compensation commissioner as a result of  
4 44 an employee's injury or death that would allow the  
4 45 identification of the employee or the employee's  
4 46 dependents. Confidential information includes first  
4 47 reports of injury and subsequent reports of claim  
4 48 activity. Confidential information does not include  
4 49 pleadings, motions, decisions, opinions, or  
4 50 applications for settlement that are filed with the  
5 1 workers' compensation commissioner.

5 2 2. The workers' compensation commissioner shall  
5 3 not disclose confidential information except as  
5 4 follows:

5 5 a. Pursuant to the terms of a written waiver of  
5 6 confidentiality executed by the employee or the  
5 7 dependents of the employee whose information is filed  
5 8 with the workers' compensation commissioner.

5 9 b. To another governmental agency, or to an  
5 10 advisory, rating, or research organization, for the  
5 11 purpose of compiling statistical data, evaluating the  
5 12 state's workers' compensation system, or conducting  
5 13 scientific, medical, or public policy research, where  
5 14 such disclosure will not allow the identification of  
5 15 the employee or the employee's dependents.

5 16 c. To the employee or to the agent or attorney of  
5 17 the employee whose information is filed with the  
5 18 workers' compensation commissioner.

5 19 d. To the person or to the agent of the person who  
5 20 submitted the information to the workers' compensation  
5 21 commissioner.

5 22 e. To an agent, representative, attorney,  
5 23 investigator, consultant, or adjuster of an employer,  
5 24 or insurance carrier or third-party administrator of  
5 25 workers' compensation benefits, who is involved in  
5 26 administering a claim for such benefits related to the  
5 27 injury or death of the employee whose information is  
5 28 filed with the workers' compensation commissioner.

5 29 f. To all parties to a contested case proceeding  
5 30 before the workers' compensation commissioner in which  
5 31 the employee or a dependent of the employee, whose  
5 32 information is filed with the workers' compensation  
5 33 commissioner, is a party.

5 34 g. In compliance with a subpoena.

5 35 h. To an agent, representative, attorney,  
5 36 investigator, consultant, or adjuster of the employee,

5 37 employer, or insurance carrier or third-party  
5 38 administrator of insurance benefits, who is involved  
5 39 in administering a claim for insurance benefits  
5 40 related to the injury or death of the employee whose  
5 41 information is filed with the workers' compensation  
5 42 commissioner.

5 43 i. To another governmental agency that is charged  
5 44 with the duty of enforcing liens or rights of  
5 45 subrogation or indemnity.

5 46 3. This section does not create a cause of action  
5 47 for a violation of its provisions against the workers'  
5 48 compensation commissioner or against the state or any  
5 49 governmental subdivision of the state.

5 50 Sec. 8. Section 87.11, unnumbered paragraph 1,  
6 1 Code 2005, is amended to read as follows:

6 2 When an employer coming under this chapter  
6 3 furnishes satisfactory proofs to the insurance  
6 4 commissioner of such employer's solvency and financial  
6 5 ability to pay the compensation and benefits as by law  
6 6 provided and to make such payments to the parties when  
6 7 entitled thereto, or when such employer deposits with  
6 8 the insurance commissioner security satisfactory to  
6 9 the insurance commissioner ~~and the workers'~~

~~6 10 compensation commissioner as guaranty for the payment~~  
6 11 of such compensation, such employer shall be relieved  
6 12 of the provisions of this chapter requiring insurance;  
6 13 but such employer shall, from time to time, furnish  
6 14 such additional proof of solvency and financial  
6 15 ability to pay as may be required by such insurance  
6 16 commissioner ~~or workers' compensation commissioner.~~

~~6 17 Such security shall be held in trust for the sole~~  
~~6 18 purpose of paying compensation and benefits and is not~~  
~~6 19 subject to attachment, levy, execution, garnishment,~~  
~~6 20 liens, or any other form of encumbrance. However, the~~  
~~6 21 insurance commissioner shall be reimbursed from the~~  
~~6 22 security for all costs and fees incurred by the~~  
~~6 23 insurance commissioner in resolving disputes involving~~  
~~6 24 the security.~~ A political subdivision, including a

6 25 city, county, community college, or school  
6 26 corporation, that is self-insured for workers'  
6 27 compensation is not required to submit a plan or  
6 28 program to the insurance commissioner for review and  
6 29 approval.

6 30 Sec. 9. Section 87.14A, Code 2005, is amended to  
6 31 read as follows:

6 32 87.14A INSURANCE ~~OR BOND~~ REQUIRED.

6 33 An employer subject to this chapter and chapters  
6 34 85, 85A, 85B, and 86 shall not engage in business  
6 35 without first obtaining insurance covering  
6 36 compensation benefits or obtaining relief from  
6 37 insurance as provided in this chapter ~~or furnishing a~~  
~~6 38 bond pursuant to section 87-16.~~ A person who  
6 39 willfully and knowingly violates this section is  
6 40 guilty of a class "D" felony.

6 41 Sec. 10. Section 87.19, unnumbered paragraph 1,  
6 42 Code 2005, is amended to read as follows:

6 43 Upon the receipt of information by the workers'  
6 44 compensation commissioner of any employer failing to  
6 45 comply with ~~sections 87-16 and 87-17~~ section 87.14A,  
6 46 the commissioner shall at once notify such employer by  
6 47 certified mail that unless such employer comply with  
6 48 the requirements of law, legal proceedings will be  
6 49 instituted to enforce such compliance.

6 50 Sec. 11. Section 87.20, Code 2005, is amended to  
7 1 read as follows:

7 2 87.20 REVOCATION OF RELEASE FROM INSURANCE.

~~7 3 The insurance commissioner with the concurrence of~~  
~~7 4 the workers' compensation commissioner~~ may, at any  
7 5 time, upon reasonable notice to such employer and upon  
7 6 hearing, revoke for cause any order theretofore made  
7 7 relieving any employer from carrying insurance as  
7 8 provided by this chapter.

7 9 Sec. 12. Section 91A.3, subsection 3, Code 2005,  
7 10 is amended to read as follows:

7 11 3. The wages paid under subsection 1 shall be sent  
7 12 to the employee by mail or be paid at the employee's  
7 13 normal place of employment during normal employment  
7 14 hours or at a place and hour mutually agreed upon by  
7 15 the employer and employee, or the employee may elect  
~~7 16 to have the wages sent for direct deposit, on or by~~  
~~7 17 the regular payday of the employee, into a financial~~

7 18 institution designated by the employee. An employer  
7 19 shall not require a current employee to participate in  
7 20 direct deposit. The employer may require, as a  
7 21 condition of hire, a new employee to sign up for  
7 22 direct deposit of the employee's wages in a financial  
7 23 institution of the employee's choice unless either of  
7 24 the following conditions exist:  
7 25 a. The costs to the employee of establishing and  
7 26 maintaining an account for purposes of the direct  
7 27 deposit would effectively reduce the employee's wages  
7 28 to a level below the minimum wage provided under  
7 29 section 91D.1.  
7 30 b. The provisions of a collective bargaining  
7 31 agreement mutually agreed upon by the employer and the  
7 32 employee organization prohibit the employer from  
7 33 requiring an employee to sign up for direct deposit as  
7 34 a condition of hire.  
7 35 Sec. 13. Section 91A.6, Code 2005, is amended by  
7 36 adding the following new subsection:  
7 37 NEW SUBSECTION. 4. On each regular payday, the  
7 38 employer shall send to each employee by mail or shall  
7 39 provide at the employee's normal place of employment  
7 40 during normal employment hours a statement showing the  
7 41 hours the employee worked, the wages earned by the  
7 42 employee, and deductions made for the employee. An  
7 43 employer who provides each employee access to view an  
7 44 electronic statement of the employee's earnings and  
7 45 provides the employee free and unrestricted access to  
7 46 a printer to print the employee's statement of  
7 47 earnings, if the employee chooses, is in compliance  
7 48 with this subsection.  
7 49 Sec. 14. Sections 87.16 and 87.17, Code 2005, are  
7 50 repealed.>  
8 1 #3. Title page, line 1, by inserting after the  
8 2 word <to> the following: <employment, including the  
8 3 payment of weekly workers' compensation benefits,  
8 4 workers' compensation settlements and filings, and>.  
8 5 #4. Title page, lines 2 and 3, by striking the  
8 6 words <a civil penalty> and inserting the following:  
8 7 <civil penalties>.  
8 8 #5. By renumbering as necessary.  
8 9  
8 10  
8 11  
8 12 WILLIAM A. DOTZLER  
8 13 SF 415.301 81  
8 14 kh/cf/2446